

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

DARLENE A. VIVIAN,

Plaintiff,

v.

ANDREW SAUL, *Commissioner of  
Social Security*,

Defendant.

Case No. 20-cv-00526-DKW-RT

**ORDER GRANTING  
APPLICATION TO PROCEED  
WITHOUT PREPAYMENT OF  
FEES OR COSTS<sup>1</sup>**

Plaintiff Darlene Vivian moves for leave to proceed without prepaying fees or costs in this social security appeal (“IFP Application”). Dkt. No. 3.

Federal courts can authorize the commencement of any suit without prepayment of fees or security by a person who submits an affidavit that demonstrates an inability to pay. *See* 28 U.S.C. § 1915(a)(1). While Section 1915(a) does not require a litigant to demonstrate absolute destitution, *Adkins v. E.I. Du Pont de Nemours & Co.*, 335 U.S. 331, 339 (1948), the applicant must nonetheless show that she is “unable to pay such fees or give security therefor,” 28 U.S.C. § 1915(a).

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<sup>1</sup>Pursuant to Local Rule 7.1(c), the Court finds this matter suitable for disposition without a hearing.

Here, Vivian has made the required showing under Section 1915(a). In the IFP Application, Vivian states that she is unable to work and does not receive any pay or wages. She further states that, in the past 12 months, the only income she has received is \$388 per month in “general assistance” and \$354 per month in food stamps. She further states that she has \$37 in a checking or savings account and owns no other assets. Vivian also states that she has regular monthly expenses for, *inter alia*, food, rent, and transportation, and she will have to repay the State of Hawai‘i for the “general assistance” she has received.

In light of these figures, Vivian’s income falls well below the poverty threshold identified by the Department of Health and Human Services’ (“HHS”) 2020 Poverty Guidelines. See HHS Poverty Guidelines, available at: <https://aspe.hhs.gov/poverty-guidelines>. In addition, Vivian has insufficient assets to provide security for the \$402 filing fee while still affording the necessities of life. See *Escobedo v. Applebees*, 787 F.3d 1226, 1234 (9th Cir. 2015).

As a result, the Court GRANTS the IFP Application, Dkt. No. 3.

IT IS SO ORDERED.

Dated: December 10, 2020 at Honolulu, Hawai‘i.



/s/ Derrick K. Watson  
Derrick K. Watson  
United States District Judge